

Town of New Windsor

555 Union Avenue New Windsor, New York 12553 Telephone: (845) 563-4615 Fax: (845) 563-4693

OFFICE OF THE PLANNING BOARD

WEDNESDAY — SEPTEMBER 22, 2004 - 7:30 PM TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES DATED:

JULY 14, 2004 & AUGUST 11, 2004

ZBA REFERRAL:

1. TOPO REALTY LLC (04-26) RT. 32 (SHAW)
Proposed conversion of existing retail/warehouse space to office/retail.

PUBLIC HEARINGS:

2. JACK & CLAUDIA ARANSON LOT LINE CHANGE /SUBDIVISION (03-26) RT. 94 (MARTI) Proposed 4-lot residential subdivision with lot line change

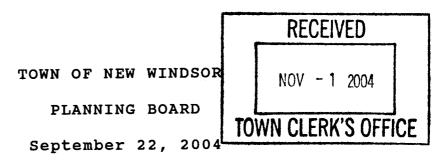
REGULAR ITEMS:

- 3. STELLA WAY SUBDIVISION (03-08) SCHIAVONE ROAD (SANDOR) roposed 3-lot residential subdivision.
- 4. MIDDLE EARTH SUBDIVISION (03-22) STATION ROAD (CLEARWATER) Proposed 27-lot residential subdivision
- 5. RAKOWIECKI SUBDIVISION (01-26) STATION ROAD (TECTONIC)
 Proposed 36-lot residential subdivision
- 6. JOSEPH FUMAROLA (04-17) RT. 207 (YANOSH) Proposed 2-lot residential subdivision.
- 7. STRAUS FAMILY CAPITAL GROUP (04-18) 59 WINDSOR HIGHWAY (BL COMPANIES) Proposed conversion of former Devitts building to medical offices.
- 8. MID HUDSON HOLDING II SUBDIVISION (04-25) RT. 9W (MICHALSKI) Proposed 2-lot subdivision.

DISCUSSION

ADJOURNMENT

(NEXT MEETING -OCTOBER 13, 2004)



MEMBERS PRESENT:

JAMES PETRO, CHAIRMAN

JERRY ARGENIO NEIL SCHLESINGER

ERIC MASON

DANIEL GALLAGHER

ALSO PRESENT: MARK EDSALL, P.E.

PLANNING BOARD ENGINEER

MICHAEL BABCOCK BUILDING INSPECTOR

MYRA MASON

PLANNING BOARD SECRETARY

ABSENT: RON LANDER

THOMAS KARNAVEZOS ANDREW KRIEGER, ESQ.

REGULAR MEETING

MR. PETRO: I'd like to call the September 22, 2004 meeting of the New Windsor Planning Board to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. PETRO: We have the alternates tonight because I know Tom is absent and evidently Ron isn't here yet. Andy Krieger who is the attorney for the planning board is absent. If it should come up that we have a serious legal question, if there's something that we can't seem to figure out ourselves, we'll have to table the application. I don't see that happening but just keep it in mind. Okay? Especially you, Greg, you confuse everything.

APPROVAL OF MINUTES DATED JULY 14, 2004 & AUGUST 11, 2004

MR. PETRO: Approval of the minutes dated July 14, 2004 and August 11, 2004.

MR. ARGENIO: I'll make the motion we accept them as written.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board accept the minutes as written for those two dates. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

ZBA REFERRAL:

TOPO REALITY LLC (04-26)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. PETRO: Topo Realty LLC, proposed conversion of existing retail warehouse space to office retail. Where is this, Greg?

MR. SHAW: This is on Windsor Highway just a little bit south of Fern Avenue or Fern Street across from maybe Ruscetti Road, used to be Mid Hudson Beauty Supply, was built back around 1971, presently right now it's vacant.

MR. PETRO: Had a deli with a beautiful roof in the front?

MR. SHAW: It consists of the lower portion of the plan you'll see existing conditions, plan has the building on it, has 13 parking spaces in the front, a partial macadam drive to the back and then it's a dirt gravel I believe the building parking area in the rear. presently is vacant right now. It's in the C zone and since this building was constructed around 1971, obviously the zoning ordinance has changed considerably. We're proposing to convert it into medical offices with maybe a small portion reserved for retail, maybe not, seems that they're in the same use group, it would make sense to do that, but what's happened is that with the zoning having changed, we have existing non-conforming conditions. We're short with respect to minimum lot area, we're deficient with respect to minimum lot width, deficient with respect to minimum side yard one, deficient with respect to minimum side yard both. Now, those are existing conditions, we didn't create them, the building presently exists, not putting any additions on.

deficiency is because of the change in zoning. What we also need is a variance for parking. According to your zoning ordinance we're required to provide 55 spaces, we're providing 44. You notice in the rear is where we're going to be putting the bulk of the parking in, we'll end up landscaping it, it will have site lighting and such but what we need before this board tonight is a rejection of the site plan application to allow us to go to the zoning board of appeals.

MR. PETRO: It's easy to reject one of your plans.

MR. SHAW: You do that very well. Thank you.

MR. PETRO: Manns Brothers, Inc. Topo LLC, do we have a proxy?

MR. SHAW: Manns Brothers are the owners, Casey Manns, the medical practice going in there would be Tojino and Pomerantz.

MR. PETRO: I'll entertain a motion for final approval.

MR. ARGENIO: I'll make the motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Topo Realty LLC site plan proposed change in use on Windsor Highway. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	NO
MR.	GALLAGHER	NO
MR.	MASON	NO
MR.	ARGENIO	ИО
MR.	PETRO	NO

MR. PETRO: At this time you have been referred to the New Windsor Zoning Board for the necessary variances. If you are successful and receive those, put them on the map and if you wish to appear before this board again you can do that. I would also add this, Greg, for the minutes that I think that this board would send you there with a positive recommendation. I think it's a nice use for this site, it seems to have failed at a lot of other things, I think it's a good spot. I know Dr. Grant is going across the street and right in that corridor.

MR. SHAW: I would agree and I will pass that on to the ZBA.

PUBLIC HEARINGS:

JACK & CLAUDIA ARANSON LOT LINE CHANGE/SUBDIVISION (03-26)

Mr. Craig Marti appeared before the board for this proposal.

MR. PETRO: Proposed 4 lot subdivision with lot line change. Application proposes subdivision of 5.35 acres, two existing lots into five lots. The plan was previously reviewed at the 24 September, 2003, 25 February, 2004 planning board meetings. It's here tonight for a public hearing. It's in a PO zone in an R-4 zone district in Town, residential use permitted use by right in both zones. I think we've seen this quite a few times. Mark has a few comments, why don't you bring us up to date if anything's changed. Turn that so we can look at it first and later we'll go to the public.

MR. MARTI: The changes which have been made have dealt with some technical issues as far as drainage and the piping as we enter and cross the DOT road cut with the sewer and the culvert locations which I have worked out with Mark at the workshop. The building or the fire inspector's concerns with regards to the tree which has been proposed be left in the grassed area and cul-de-sac have been addressed with a proposal to install a reinforced turf to support emergency access or support the access for emergency services.

MR. PETRO: Originally we were going to put an island?

MR. MARTI: We were trying to preserve one of the larger trees on the property. Since then, we have agreed to take the tree down, plant a reinforced turf, still have a grassed island, it will be reinforced so it will support the load of emergency vehicles. He still expressed a concern because if they drove across

it, he's concerned about receiving phone calls in the future.

MR. ARGENIO: Who's he?

MR. MARTI: Fire inspector indicated that he's still concerned about an ongoing maintenance issue. Our proposal would be to clarify that and include provisions with regards to that concern in the road maintenance agreement which will have to be filed for the private road and those will be filed with the county and the town as well.

MR. PETRO: We have met with the owners of record a couple of times trying to do something upscale a little bit and make it nice and I kind of think this is a nice idea being that you can't leave the tree so if you get a couple ruts, so be it. I mean, just trying to make it nice and I don't think that's such a bad idea so I don't see anything, does anybody have a problem with the interlocking stones inside the circle? It would allow the fire trucks to turn around and it would still look nice and be a little nicer look.

MR. SCHLESINGER: What's the radius or diameter?

MR. MARTI: It's the same as the, same as it would be if it was fully paved. We're proposing 18 foot strip rather than the massive sea of asphalt that's typical.

MR. ARGENIO: It's a good adjective again.

MR. PETRO: Plan proposes Town sewer main. An easement is required to the Town. Following preliminary approval, the applicant will be required to obtain a reallocation agreement for capacity. Obviously, I'm reading Mark's comments and you can have a copy of those, keep track of what we're doing. Approval of the sewer main and that's, I'm not going to any further. As previously noted, the road surface application

should note as per application the plan notes the intent to construct sub-grade and sub-base to meet Town road standards. Additional information will be needed and added on the final plans and material references must comply with the new code requirements.

MR. MARTI: Yes, that's understood.

MR. PETRO: What's the purpose of that?

MR. MARTI: The intent at this time is to construct the road as a private road such that we can maintain the aesthetic attributes of turf area in the middle of the cul-de-sac, we know that a Town road we wouldn't have that option of asking this board for that type of a waiver from the Town road specifications as well as the preservation of some trees along the stone wall which would be within the Town road right-of-way. clearing of the right-of-way would be required under Town road conditions, however, in the future should these trees, you know, become a non-issue, should the future owners of the lots decide that they want to upgrade the road to meet Town road specifications and clear whatever trees are required which would require all of the owners to agree and then it would be a matter of the, it would be on record that the sub grade was suitable for the improvement at a later date.

MR. ARGENIO: The note confuses me a bit. I see referring to the sub-base and not the thickness of the bituminous concrete that makes sense to me, makes perfect sense.

MR. PETRO: That 25 foot easement that's coming off the cul-de-sac I think the board asked you to do that at sometime back.

MR. MARTI: That was basically to provide for sewer, municipal sewer and services to the existing residents that are currently served by a well and on-site septic,

this was a matter of maintaining the rights to tying into future public improvements if necessary.

MR. PETRO: Adjoining property has obtained approval for a lot line revision which alters the approved layout of the subdivision, removes the cul-de-sac away from the property line, it's suggested this plan be updated to reflect the approval on the adjoin property. What's that all about?

MR. MARTI: That was an adjoining older subdivision which is Suburban Court which comes in down by Mr. Shed, comes down, loops around, the original subdivision brought the cul-de-sac basically at or near the property line. I understand that there's an application.

MR. EDSALL: Since you've been last here that's now approved and it makes sense to show that in fact the cul-de-sac really is not that close which actually improves the condition of this project.

MR. MARTI: Actually improves the condition of our project by separating the end of their road from our property line.

MR. PETRO: Lead agency coordination letter was circulated on the 16 of March, 2004 and I'm aware of no responses so I'll entertain a motion for lead agency.

MR. ARGENIO: I'll make the motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Jack and Claudia Aranson lot line change/subdivision on Route 94. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: We have fire 9/15/2004 has been disapproved, fire inspector's comments from 2/18/04 have not been incorporated in the subdivision plan so you're going to have to look at that.

MR. MARTI: That was the concern he had with regard to the cul-de-sac, the cutting the tree out, removing the tree and the grassed area from the cul-de-sac, the other comments which he had made were with coordination of 911 and he's approved the name Claudia Court and the street numbers as drafted here will have to be revised to reflect the actual street numbers which are part of the 911.

MR. PETRO: Has he seen this plan?

MR. MARTI: Yes, I believe he has.

MR. PETRO: So he just has been about--

MR. BABCOCK: I just handed the gentleman John's notes just now.

MR. PETRO: Why don't you work with those, when you come back we need to have it where there's no disapproval here from the fire department.

MR. EDSALL: You may not get that unless you pave 100 foot.

MR. MARTI: Unless we pave the cul-de-sac, he's indicated that he will voice his concern against his

approval of, he understands that the board has the discretion within the Town Code to approve it as I presented it, however, he because of his concerns in and attempt to address his concerns or acknowledge his concerns we can incorporate language in a road maintenance agreement such that the owners acknowledge.

MR. PETRO: It's a private road at this point?

MR. MARTI: Yes.

MR. PETRO: Private road maintenance agreement, if you get a rut, they've got to fix it.

MR. MARTI: Yes.

MR. ARGENIO: I've put them in six or eight times.

MR. PETRO: Why would you get a rut?

MR. ARGENIO: I've installed them at least six or eight times and typically they're used for fire access by engineers and I don't want to go against Mr. Rogers but that's typically what these are used for, crash gate. Mark, have you used them for that?

MR. EDSALL: We've gotten emergency access lanes we're designing at this point that are doing exactly that.

MR. ARGENIO: That's what they're for for fire access.

MR. PETRO: I will tell you what we're going to do, you talk to him, tell him the feeling of the board there's not a problem with it. You have a problem, you call me and I'll go talk to him.

MR. MARTI: Okay. The other comment he has here about the 911 numbers are use a matter of coordinating street numbers.

MR. PETRO: Go over that one more time and get it so it says here that he has no further concern. On the 9th day of September, 2004, 24 addressed envelopes containing the notice of public hearing were mailed out. If someone is here who'd like to speak for or against, just make comment on this application be recognized by the chair, come forward, state your name and address and your concern. Would anyone like to speak?

MR. BROWN: My name is Joseph Brown, I own the property adjacent to this and I just moved up here a year ago and this is the first I'm hearing about this.

MR. PETRO: Turn that a little bit so we can just get a peak.

MR. BROWN: He has the property adjacent to mine.

MR. PETRO: Where is your property, sir?

MR. BROWN: This one right here and I really, this is the first time I've seen the plans and I don't know, it looks like you're building four houses here and I guess I really, my biggest concerns which I have is with the drainage in the area cause and I don't know whether this will affect it or not cause I already have flooding in my property. So that's basically that can probably be improved by making improvements along the drainage ditch along the road, I'm not sure.

MR. PETRO: You bought the original old mansion, right?

MR. BROWN: Right, I bought that approximately one year ago and so I really don't know if I can have any objections to this or whatever, you know, cause I'm not sure but like I said first time I knew about this and first time I'm looking at it.

MR. PETRO: You don't necessarily have to have an

objection, if you have a comment such as the water's coming off the lot, tell us something that we don't know so we can act on it.

MR. BROWN: That's my biggest concern is the drainage from my property into their properties. Right now, it's a problem, as I found out after I moved in, I get flooded in my property coming from adjacent properties that are further uphill from me.

MR. PETRO: I think the water there is a problem to start with, I think it goes across Willow Avenue, I think it's all coming from Mr. Mallar's house. Oh, I didn't see you sitting there, sorry, sir. But seriously, there's a lot of drainage that goes down and that's a natural flow there so it's crossing your property now and does probably enter onto those lots, I think it's in the direction is what you're saying.

MR. MARTI: Basically from this direction and from uphill here it's very, in this front corner is actually the low spot where you have to allow for the drainage to get out of this was kind of the conflict we had with with the utilities just getting the sewer to cross underneath the culvert which we're proposing at the end of the private road so that was some consideration that I had gone through with the Town engineer to make sure that there was relief so that we can get it back up here. Water flows this way, there's water coming across here, this water comes along here, the low spot is down here where there's a culvert so we're providing for the water to keep going to that culvert.

MR. BROWN: Where are you going to provide it for?

MR. MARTI: The existing drainage ditch will stay as is. The drainage problems that are up beyond Willow and I've addressed or Town has attempted to address them with some additional culverts in that area but our responsibility is to allow the drainage from our

property to keep going rather than enhance or exacerbate the problem.

MR. PETRO: Can't solve the existing problem where the water's coming from beyond your site, through your site but we can make sure that we don't cause any additional problem.

MR. BROWN: Yeah, that's my biggest concern, first time I've seen this. Right now zoned for one acre lots this area or--

MR. PETRO: I believe this pre-exists the new zoning and I think at this time Mark it was?

MR. EDSALL: Yeah, yes, at the time this application came in the PO zone had not been upgraded for the zoning so they predate it, they're grandfathered to the zoning that was in place at the time they made this application.

MR. PETRO: They meet all the zoning requirements.

MR. BROWN: I just wanted to know.

MR. PETRO: We have looked at this quite a number of times.

MR. MARTI: We changed our plans to reflect the desires of the board to have even lower density.

MR. PETRO: They probably could have squeezed one more lot as per our request or wish, they actually eliminated one and made all the other ones a little larger.

MR. BROWN: All right, so basically question now I'm not exactly sure if I understood what the gentleman was saying, the zoning now is one acre or it's less?

MR. PETRO: No, in that--

MR. SCHLESINGER: Zoning now is changed but at the time that the application was made, it met the standard for the zoning which was--

MR. EDSALL: It was back actually 20,000 square foot in the PO zone for a single family residential, the lots they're proposing in the PO are nearly one and a half times that size so actually they haven't maximized their development, they don't meet the current zoning, they're not squeezing out the most they can get from the old zoning.

MR. BROWN: Okay, that was my biggest concern. Just to finalize the questions, I do understand the zoning as it exists right now is not grandfathered in or backdated or whatever is one acre?

MR. PETRO: Would be larger lots.

MR. BROWN: Thank you.

MR. EDSALL: The lots that are in the R-4 zone which are the ones to the west the zoning in R-4 had been upgraded when they made their application those lots are over an acre, it's just the two in the front that predated.

MR. BROWN: Okay.

MR. EDSALL: What happened was the Town didn't adopt the updated regulations for PO at the same time, they did that later.

MR. BROWN: Thank you.

MR. KARTIGANER: Drew Kartiganer, 30 Meadow Street, Town of Newburgh. We have the property across the street on 94. I know the Aransons, I've seen them go through this and I would hope you guys adopt it, it's more than open space for us, it's a quality development.

MR. PETRO: Mr. Mallar, do you want to talk on this?

MR. MALLAR: We support it, no problem.

MR. PETRO: And I'm right, your water's going down that way right.

MR. ARGENIO: No other hands shown, I will make a motion we close the public hearing.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Aranson lot line change/subdivision. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: At this time, I open it back up to the board for further comment. I think we've seen this quite a number of times, although you do have quite a few comments from Mark. I'd really like to see them cleaned up. I hate to bring you back. Mark, do you see anything here that--

MR. EDSALL: All my comments are really clean-up issues, what Craig needs is a negative dec, if you're so inclined and he needs a preliminary approval so that he can proceed to the DOT for the approvals for the

access to 94 and also to DEC for the sewer main approval, so it's my recommendation that you adopt a negative dec based on the information that's been reviewed on the several meetings and secondly that you grant preliminary approval subject to him making these corrections on the preliminary plans.

MR. PETRO: Motion for negative dec.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec under the SEQRA process for the Aranson lot line change/subdivision on 94. Is there any further discussion? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: Motion for preliminary approval subject to Mark's comments being addressed. We've gone over a number of them and also so he can get started with the other agencies that he needs to get to.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant preliminary approval to the Jack and Claudia Aranson lot line change and subdivision on 94. Any further discussion from the

board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

REGULAR ITEMS:

STELLA WAY SUBDIVISION (03-08)

Mr. James Clearwater appeared before the board for this proposal.

MR. EPTRO: Stella Way subdivision. Proposed 3 lot residential subdivision. This application proposes subdivision of two existing parcels into 3 single family lots. The plan was previously reviewed at the 26 March, 2003, 11 June, 2003, 27 August, 2003, 11 August, 2004 planning board meetings. Who says we move things along too quick? What are you building over here? At the August, 2003 planning board meeting I noted that all my previously requested corrections were I also reported to the board we had a field meeting with Henry Kroll at which time we identified some specific requirements at the private road intersection with the Town road. The plans comply with these requirements. As a reminder, the revised plans eliminate the previously depicted retaining walls along the private road. Concrete curbs, asphalt pavement are intended for the roadway, storm catch basins are still included. Some remaining issues are as follows. Mark, why don't you go over those?

MR. EDSALL: They're just some minor corrections. The bulk table has some items that need to be fixed. I list those. I'm reminding the applicant which I know he's aware that the sewer reallocation agreement needs to be finalized. It's currently pending for the appropriation of sewer from the Majestic District to this use, the sanitary line we understand is intended to be dedicated to the Town. We need to get that acknowledged on the plan, as far as providing an easement and they'll need DEC approval. We have the private road completion bond, the maintenance declaration, both of which are procedural items. I'm sure they've got somebody working on it and there's a

small public improvement estimate for the work out by the Town road. Procedurally, you have already taken lead agency, you have already had the public hearing, the changes that have occurred based on new design approach I don't believe are significant enough to warrant another public hearing. As I state in comment 3, you should really on the record make that decision and note that this is substantially the same, just some improved engineering design.

MR. PETRO: Mark, your note number 3, I like that you have this on there, is this something that you plan on doing with all the applications from now on or--

MR. EDSALL: No, this one as you said moved along so briskly that I lost track so I got ahold of Myra and we just tried to find out where I was.

MR. PETRO: That's a nice thing to have on this, if you and Myra can do that, Myra does a good job here, says we did it, we did it, but it's nice to read it so quickly.

MR. EDSALL: If Myra and I can coordinate, she can give me the status sheets and I can put in on there.

MR. PETRO: Public hearing was held on 6/11/03 and I think that the board would agree that any of the changes are very insignificant in that the board would not require a new public hearing, matter of fact, I don't know if anybody showed up at the last one. Does anybody disagree how about that? Just a roll call if we should not require another public hearing under such small changes.

MR. ARGENIO: I agree.

MR. PETRO: Motion to that effect.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board not require a second public hearing due to the small changes and insignificant conditions of them for the Stella Way minor subdivision. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. MASON AYE
MR. ARGENIO AYE
MR. PETRO AYE

MR. EDSALL: Is it in front of DEC now or no?

MR. CLEARWATER: No.

MR. PETRO: Entertain a motion for negative dec.

MR. ARGENIO: So moved.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec under the SEQRA process for the Stella Way minor subdivision. Any further discussion from the board members?

MR. EDSALL: I just want the record to be clear that the reason why you didn't do the negative dec back in 2003 following the public hearing is that there was at drainage issue that required Henry and I to make a field visit that's since has been resolved, this was the only issue that was holding it up.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: We have highway approval on 9/21/2004, we have fire approval on 9/16/2004, 911 need to assign numbers, must be picked up, placed on the plan. Please submit three copies.

MR. EDSALL: Myra, this had preliminary already? No?

MR. PETRO: This used to be listed under fire, is this something separate? John's doing them both?

MS. MASON: Yeah but they're two separate reviews so you can give a disapproval to one and not the other.

MR. PETRO: Wasn't like that before.

MS. MASON: No.

MR. PETRO: Okay, all right, so Mark, other than the E-911 numbers being assigned, what else do you have?

MR. EDSALL: This doesn't have at this point as I recall preliminary approval?

MR. CLEARWATER: No, it doesn't.

MR. EDSALL: So the next step similar to the previous application will be a preliminary approval so they can move on.

MR. PETRO: Motion for preliminary approval.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant preliminary approval to Stella Way minor subdivision on Schiavone Road subject to, well, I guess just get the 911 numbers done and you can start with the outside agencies. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. MASON AYE
MR. ARGENIO AYE
MR. PETRO AYE

MR. PETRO: Thank you.

MR. CLEARWATER: 911 numbers are on here, he did give them to us and I added them on.

MS. MASON: I'll check it.

MR. PETRO: Just maybe an oversight.

MR. CLEARWATER: Thank you very much.

MIDDLE EARTH SUBDIVISION (03-22)

Mr. James Clearwater and Mr. Andrew Kartiganer appeared before the board for this proposal.

MR. PETRO: Proposed 27 lot residential subdivision.

MR. CLEARWATER: It's 26.

MR. PETRO: You took one out? Why did you take the one out?

MR. CLEARWATER: It's been 26 for quite some time. In any case, the plan is near same as it was last time the board reviewed it.

MR. PETRO: Let me read in just so you know why so when people read it they know that we're not here one night and just letting it go because it's important to know that that application proposes subdivision of 96 acre parcel into 26 single family lots. The plan was previously reviewed at the 23 July, 2003, 25 February, 2004 April 14, 2004, 26 May, 2004 and 23 June, 2004 planning board meetings. Seems like whenever you're involved with this quite a few visits but anyway the property's located in R-1 zone district of the Town, required bulk information shown on the plan is correct for the zone and use the plans have been revised for previous comments and discussions at work sessions. have the following comments regarding the latest plans submitted and their status of various items, I guess, Mark, you can go over those, no sense of me reading what you wrote.

MR. EDSALL: Well, at this point, I guess the not major issue but the next issue we have to make sure gets finalized is the storm water pollution prevention plan. Pat Hines had some comments, they're attached to my report, we just need to have that resolved and hopefully we can have a meeting of the minds and get

that finalized. Other than that, they have, I know they're working with Andy on the restrictive covenants and they've got some outside agency reviews potentially and they did get a release from Orange, from New York State Office of Parks, Recreation and Historic Preservation so that's out of the way.

MR. PETRO: Let me ask who's talking?

MR. KARTIGANER: I was asking whether we need the review prior to preliminary.

MR. EDSALL: The only thing that I believe needs to be resolved before you can issue a negative dec or any preliminary approval would be the storm water pollution prevention plan that should be resolved before the negative dec.

MR. PETRO: I still have again on 9/22/2004, I have highway disapproved, again need drainage study reviewed, again this is back to Mr. Kroll, I know it does say here that you're working with him. What's this story here? This is like five times. What's going on?

MR. CLEARWATER: With all due respect, we submitted the drainage report back in June, actually back in May, I think we made some revisions in June and here, you know, I realize everybody's got a lot on their plate and things are busy but, you know--

MR. PETRO: Sight distance is resolved, drainage is the last problem?

MR. ARGENIO: Wait a second, not to soften your point at all but, Mark, wasn't there also an issue a couple of lots had like a two minute perc or some ridiculous thing. Wasn't there something going on there as well?

MR. KARTIGANER: There was, correct, and the response

that we had from Mr. Edsall was that's an Orange County Department of Health review issue and my engineer believes that the percs are going to work because they're the ones doing the final review.

MR. SCHLESINGER: His engineer thinks that it's going to work but it's up to the Department of Health.

MR. ARGENIO: Mark, that's right, that's a D.O.H. issue?

MR. EDSALL: Once it's a realty subdivision under state law we don't have any jurisdiction on the sanitary and wells, they may lose lots at the health department.

MR. ARGENIO: You're talking about the storm water?

MR. EDSALL: I don't and I don't have the date here that I passed it on to Pat, I'm not quite sure but Jim is correct that there are quite a number of large projects currently under review and some of the technical reviews aren't as expeditious as I'd love to have but just the way the development is in Town there's a lot going on.

MR. PETRO: Well, you've got to get that resolved so call him again.

MR. EDSALL: I think it would probably pay to work with Pat and with Henry to get both their okays or approvals before they come back at this point those are the only two I believe that are prohibiting the negative dec and the preliminary approval which would mean you can go on to the outside agencies.

MR. PETRO: Didn't we have a public hearing on this? Is this the one with the street lighting?

MR. ARGENIO: Yes, we did.

MR. PETRO: They didn't want the street lights.

MR. KARTIGANER: They didn't want the sidewalks and street lights.

MR. PETRO: That's how that was resolved.

MR. SCHLESINGER: It's not required?

MR. KARTIGANER: It is required by Town Code, according to the engineer street light is required.

MR. SCHLESINGER: I think another issue was the sidewalks.

MR. PETRO: We have sidewalks on one side.

MR. KARTIGANER: It's in there, it's at the discretion of your planning board as to whether we remove them or not.

MR. CLEARWATER: It's not a Town Board issue.

MR. KARTIGANER: We'd love to have them out but that's something--

MR. PETRO: No, we have been requiring them on one side. What else? I'm just trying to think back to the public hearing. Well, you have the two issues so, I mean, one is not holding up the other so if we had Mr. Kroll's blessing we still have the other issues.

MR. KARTIGANER: They're the same issue.

MR. CLEARWATER: It's the same issue.

MR. EDSALL: They're related because what it comes down to is properly collecting the storm water from the Town roadway and then discharging it and treating it in an acceptable manner and that overlaps with Pat so it is

the same issue in effect.

MR. KARTIGANER: It's the only issue left.

MR. PETRO: All right, thank you.

The only other issue to go back with MR. KARTIGANER: the deed restrictions and that was I discussed that with Andy Krieger, we were talking about providing the deed restrictions to the Orange County Citizens Foundation and we got a letter from them which they asked for a significant addition to what they originally discussed with me. So at this point, the way the deeded restrictions are going to be followed and I discussed with Andy is that it's going to be provided to common lot line, people in the subdivision that the deeded restrictions will be part of the deed and people in the subdivision will have those restrictions enforced on their own, he seems to feel there will always be one person within the subdivision that will act to make sure those deeded restrictions for both the viewshed along Station Road and the wetlands area in the back always be one person in there who will make sure.

MR. ARGENIO: Or somebody outside of the subdivision.

MR. KARTIGANER: We were trying to get somebody from the outside, we had somebody who we were in discussion with developing this plan and close association, they were talking about we have a couple lots that are huge as opposed to a number of lots that are equal and they came back and said that they wanted in essence they were telling me to lose three lots and to establish restrictions on about another 6 lots and what they talked about and they did, so after the public hearing and it's just not viable, they're basically saying reduce the entire subdivision because we've changed our mind and I forwarded a letter, I'm still willing to discuss it with them subject to them going along with

what we originally talked about but until then the restrictions will be provided to common lot owners who will be responsible for and have the right to enforce those restrictions. Is that clear?

MR. ARGENIO: Yes.

MR. PETRO: We have a note says check buildable area on lot 23, also check septic on 23, 22 and 29, anything lost to the wetlands needs a long form EAF. Has any of that been done? Check the septic system on lot 23, 22?

MR. ARGENIO: That's what I was referring to, Jim, and Mark is saying that's D.O.H. not us, 22, 23 and I think it was 21.

MR. CLEARWATER: There is no 29.

MR. ARGENIO: Bill was the one who actually brought it to our attention.

MR. PETRO: We can't even get there until we resolve this other issue. Get together with Mr. Kroll, Pat Hines, get this other matter resolved so we can send you on your way to get these other issues moving.

RAKOWIECKI SUBDIVISION (01-26)

Mr. Ed Butler and Mr. Bob Biagini appeared before the board for this proposal.

Rakowiecki subdivision on Station Road. MR. PETRO: Proposed 36 lot residential subdivision. Application involves subdivision of 34 acre parcel into 36 single family residential lots. The plan was previously reviewed at the 14 March, 2001, 11 June, 2003 planning board meetings. R-3 district zone, application is grandfathered and is subject to former zoning bulk tables, proposed bulk information is correct for the zone use and group. From a SEQRA standpoint, lead agency coordination letter was circulated. I'm aware of no responses which will preclude the board from assuming lead agency at this time. Let me just save us all some time because Bob, you have to bear with me, where are you with this this application, I guess there's a few outstanding comments and I don't want to There's 3 major go over the whole thing right now. issues, there could become a fourth depending on the Town adopted the new zoning in October 3 of 2001, it's going to run out in a couple weeks, as you know. we keep saying that you're grandfathered, this is a separate issue then I'm going to get back to your planning board issues now. I'm talking about the attorney now, the Town attorney to try and come up with a formulation on how to decide how long is long enough on applications because you can come back in nine years from now say this was an active application. in the works, may or may not be caught up in that, I don't know that, you may or you may not. We're going to get back to that in the future. This particular application there's three items. One is access, I think the two roads, Ashley Court the access up there, number 2 is the sewer system, there's no sewer available now, you cannot acquire, you can acquire the sewer from Majestic, as you know, but the Town is not giving out special use permits which will preclude you

from outside user permits for the sewer. So it's not going to be available to you even if you acquire the points from Majestic so that's major hurdle number 2 that I don't know what to even tell you.

MR. ARGENIO: Why is that?

MR. PETRO: Just a moratorium on outside user permits.

MR. EDSALL: Actually, the Town attorney wrote your attorney a letter in May, 2001 indicating that the Town would not entertain any outside user agreements until the sewage treatment plant is expanded and DEC moratorium is lifted and I don't know if there's any date for when that's going to occur.

There is no date and that's a serious major MR. PETRO: problem, so I said, you know, we can review it and move forward but, you know, after two or three years I think we should have an idea of what you're going to do with the sewer there and the third is which to me has always been the biggest problem with the site is the downstream drainage which goes down through Mecca and the other area that you had built. Mr. Kroll went and looked at it along with the engineers, they feel it's completely inadequate to handle this drainage. know that you have told me some of it goes the other way and it's not all being impacted down there. you're going to really need to come up with a strong off-site drainage plan for this site. And I think those three issues, those three issues are so paramount that I don't want to waste your time or my time until you come up with a serious plan. And the other thing is I wouldn't waste too much more time because I don't know when or how yet but some of these plans are not going to be grandfathered in after much longer and I don't know, that could be a year, it could be, we're not at that point yet, I'm just giving people a heads up that it's not going to be indefinite.

MR. EDSALL: Just on the access issue just so we're clear we have asked numerous times that the plans include surveyed documentation showing the access from Ridgeview Road and Finley Drive which are both Town roads to show that the Town existing right-of-ways extend far enough in so they touch this property because if both of those roads end in a cul-de-sac and the cul-de-sac is 75 foot from this property, they have no access unless number one either they purchase that strip or the Town condemns it which I don't believe is an option the Town is even considering. I've asked for that repeatedly, we need to have documentation that those are legitimate access points. All we continue to have on the plans is two lines drawn which means nothing.

MR. PETRO: Can you answer that?

MR. BUTLER: These plans were drawn from tax maps.

MR. EDSALL: Tax maps are not surveys.

MR. BUTLER: An actual survey data that shows that these parcels are as shown.

MR. EDSALL: Well, I beg to differ with you because actual survey data we have metes and bounds and you would have had the information submitted to me that I've asked for since 2001 so we don't have that information, if it exists it's wonderful but it has not been shared with this board.

MR. PETRO: Mr. Biagini, do you know for a fact do you have a right-of-way over those two strips? Do you know for a fact?

MR. BIAGINI: I don't know for a fact.

MR. EDSALL: As you said, Mr. Chairman, access, sewer and drainage we need to get those key elements

straightened out.

MR. PETRO: That would be number one, so try to get that information, if you have metes and bounds description put them on the plans or give them to Mark or to the attorney so we can review that. something that's doable. The second one is the one to me which is going to be the most difficult you cannot obtain an outside user permit from the Town of New Windsor, even if you could, there's a sewer moratorium and if you could get the points so I don't know where we're going to go from there so I have no clue on how to handle that. But if that was the only issue I would say we can still continue and go to the end assuming that that would clear up at some point. As long as you're not going to go passed the point and I don't know that point yet where it's no longer grandfathered in, you're going to have to do a reconfiguration of the lots under the 80,000 square foot.

MR. BIAGINI: With well and septic.

MR. PETRO: The third one with downstream you need to get started.

MR. BUTLER: Again, that's off-site and if our plan is designed per current state regulations and our post-development flows doesn't exceed pre-development flow that really doesn't have a bearing on the site.

MR. EDSALL: It does by virtue of the fact of the methodology by which you're handling storm water does not provide catch basins within the road which is in the Town Law, you're providing stone swales behind the curbs and drop sections, inlets every hundred foot in the curb so that storm water from the road runs behind the curb and in a ditch, which is not reflected in the Town laws so the whole concept in the study violates Town Law, so that can't be used, you need to have sidewalks, you need to have continuous curbs, not curbs

with a drop every hundred foot for drainage to run out of it and the Town Law requires drainage with piping and catch basins in the road which you don't have any.

MR. PETRO: Once you do that that you're going to have an impact on off-site because right now, you're diffusing some of the water behind the curbs, it's gets lost here.

MR. BUTLER: We're trying for a more environmentally sensitive approach.

MR. PETRO: I understand what you're trying to do.
Mark's telling you it's illegal, you can't do it here.
And number 2, once you do it the proper way for this
Town you're going to find that you will have an impact
off-site and we're very much interested in that. I
went out there with Mr. Biagini 12 years ago, I was out
there at that site on one of the largest swales I've
ever seen in my life. There's a lot of water that goes
there.

MR. EDSALL: It doesn't mean that it has to be an off-site impact, they have the option of attenuating the storm water on-site and having water quality treatment on-site.

MR. PETRO: Retention pond on-site, I know some of it goes the other way, you can look at that, divert it there, there may be a different design that would work for you. I think your biggest hurdle frankly is find out if you have the right to tie into those two roads. If you don't have a right-of-way and we can talk all we want, right now we don't know and number 2, would be the outside user permit and that's going to be the Town Board and it's just, they're not giving them out but I would still review the plan up to a point whether you have the outside user permit or not assuming that it would be attainable once the moratorium is lifted.

MR. BIAGINI: Have they accepted outside user permits in the past?

MR. PETRO: Prior to the 2002 letter, yes, I think that's as far as we can go and I see, I don't know the exact answer of when the grandfathering is going to stop cause you would be affected but it's not going to stop in three weeks so we're not saying this is something that we have so many files that are just sitting in limbo that at some point there has to be a time where you no longer are going to say we want to be here in 2003 well he said he was grandfathered in, he showed us a plan in 1999.

MR. BABCOCK: Jim, also I'm in conversation with right now with the Town attorney also about the issuance of building permits, basically, a lot that's grandfathered in needs to get a building permit by October 3, so if it comes to me after October 3, I'm not sure I can give it a building permit and we're trying to figure that out right now.

MR. PETRO: Keep in mind that in light of what we tried to do is not really try to hurt somebody who either had a lot or they had two lots down in Ducktown and wanted to build it now we're looking at large tracts of land out west, I you the same sob story here all the time so we're not trying to particularly hurt anybody but there has to be some sort of formula that works for everybody.

MR. BABCOCK: Right, we're working on trying to figure that out.

MR. SCHLESINGER: What about the Ashley Road access, is Ashley Road a private road?

MR. BABCOCK: No, it's Town.

MR. EDSALL: It's a Town and I believe--

MR. PETRO: I don't think that's as much of a problem.

MR. EDSALL: That's a recently dedicated Town road.

MR. BABCOCK: That was one of the applicant's subdivisions, I'm sure they made sure that goes all the way through.

MR. EDSALL: That would need to have to be shown on the plans showing the metes and bounds.

MR. PETRO: I'm sure you can do that, like you say, if it's listed somewhere and you can go get that information and provide it that problem can go away, probably in two days, that's an easy one. Thank you.

JOSEPH FUMAROLA (04-17)

Ms. Bernadette Fumarola appeared before the board for this proposal.

MR. PETRO: This is proposed 2 lot residential subdivision. Can you get any less lots than that you think?

MS. FUMAROLA: No.

MR. PETRO: This application proposes resubdivision of lot number 5 of the Quality Homes Subdivision into 2 single family residential lots. The application was previously reviewed at the 28 July, 2004 planning board meeting. I probably had asked it then I'm going to ask it again, was there any restrictions on lot number 5 that it could not be further subdivided, Mark, are you aware of any?

MR. EDSALL: I'm not aware of any. Matter of fact, I think they had mentioned early on that there was the potential so I don't see any restriction.

MR. PETRO: So I'm going to just go passed that as if it wasn't there and I'm sure we talked about it last time, this subdivision creates total of 6 lots from the parent parcel, each having a lot area of less than five acres. The applicant survey has confirmed that the timing of the recent division results in the overall subdivision, all 6 lots being subject to the review of the Orange County Department of Health. Seeking preliminary approval so they can proceed to the OCDOH for realty approval. No objection from New York State, we do have that listed in here, Myra?

MS. MASON: Yes.

MR. PETRO: We have fire approval on 9/16/2004 and highway approval on 9/21/2004. Mark, what do you have

as outstanding comments? I don't think you do.

MR. EDSALL: I don't have any really just need you to determine that it's appropriate for a negative dec which I believe is supported by the simplicity of the application and the fact that we found no reason to do otherwise and preliminary approval so they can go to the health department.

MR. PETRO: We have to take lead agency because we sent out a letter and there was no response.

MR. ARGENIO: Motion we take lead agency.

MR. GALLAGHER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Fumarola minor subdivision on Route 207. Any further comments from any of the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: Motion for negative dec.

MR. ARGENIO: Declare negative dec under the SEQRA process.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for the Fumarola minor subdivision on Route 207. Any further

comment from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER AYE MR. GALLAGHER AYE MR. MASON AYE MR. ARGENIO AYE MR. PETRO AYE

MR. PETRO: Motion for preliminary approval.

MR. ARGENIO: I'll make that motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded, again, you're going to need the E-911 numbers, you have to get that taken care of. I'm not going to hold it up now but it is disapproved, just make sure you get it taken care of.

MR.SCHLESINGER: What's the timing of the resubdivision?

MR. PETRO: Three years.

MR. ARGENIO: I was going to say I think we discussed that last time.

MR. SCHLESINGER: Three years.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant preliminary approval for the Fumarola minor subdivision on Route 207. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: We're going to take a five minute recess.

(Whereupon, a brief recess was taken.)

STRAUS FAMILY CAPITAL GROUP (04-18)

Mr. Tim O'Brien appeared before the board for this proposal.

MR. PETRO: Straus Family Capital Group. This application involves change in use from the former Devitt's retail use to a proposed professional medical office. The plan was previously reviewed at 11 August, 2004 planning board meeting. Application proposes change of use and overall upgrading of the parking lot and site improvements. It's my understanding that the board has resolved the issue of the parking and has accepted this application and reducing the conformity on the site. Further it's my understanding that the referral to the ZBA is not needed since the setback conditions have been accepted as pre-existing, non-conforming conditions, notwithstanding some corrections are required to the bulk table as follows. All right, the zone is C zone. Do you have the whole list? I don't have to go over this, some of it is just very minor stuff there.

MR. O'BRIEN: He wants no parking at the hatched areas for the handicapped, no problem.

MR. PETRO: This is all minor stuff.

MR. EDSALL: It's all minor.

MR. PETRO: The planning board should require that a bond estimate be submitted which we always do. It's my understanding that the board assumed the position of lead agency under the SEQRA review at the August meeting. Planning board may wish to make a determination regarding the type of action and make a determination regarding environmental significance. Did we waive the public hearing? No, we have it down here, I'm not clear if the board made a determination regarding need for a public hearing. I think we did

talk about that quite a bit. It should determine for the record if a public hearing is going to be waived or not, discretionary judgment. Let's go back to that first, I want to talk about the public hearing. I think what we, somebody else remind me what we said, what did we say?

MR. MASON: I thought we decided to not have a public hearing because there's nobody around.

MR. PETRO: There was nothing on either side.

MR. ARGENIO: Railroad's behind them, Argenio's are over on the other side, they don't count.

MR. BABCOCK: Jim, we last discussed up the street there was a, where the pool place is, they put a big addition on the back, you didn't like the rip-rap drain that went around so we had a public hearing for that and nobody showed up.

MR. ARGENIO: You're right, Mike, I remember that, you're right.

MR. PETRO: Couple doors up.

MR. MASON: Plus they're not changing the footprint.

MR. EDSALL: Actually, you're removing some square footage.

MR. PETRO: You're taking down the greenhouse on that side?

MR. O'BRIEN: I'd like to point out that we added the dumpster as requested and added a sidewalk right along side here and HVAC units.

MR. SCHLESINGER: Weren't there parking spaces where the dumpster was?

MR. O'BRIEN: There was parking here, we put it here and we made these designs just a little narrower, we made up what we lost.

MR. ARGENIO: They worked it out as they say.

MR. PETRO: They're already working with a demo permit, correct, that was okayed?

MR. BABCOCK: Yes.

MR. PETRO: Motion to waive the public hearing under the board's discretionary judgment.

MR. SCHLESINGER: Motion to waive the public hearing.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board waive the public hearing under its discretionary judgment. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. SCHLESINGER: What's the story about the access on the right there?

MR. O'BRIEN: We're making this one a little wider to meet the Town's codes for the truck access, fire truck, and that was only thing we're doing this one here, we're just going to leave this gate closed.

MR. SCHLESINGER: Because that was the problem.

MR. O'BRIEN: Right.

MR. EDSALL: Wasn't that going to be blocked off permanently that one down the intersection?

MR. O'BRIEN: Yeah, we're just leaving the gate closed, lock it.

MR. SCHLESINGER: Why keep it as a gate? Why close it up permanently then?

MR. O'BRIEN: Okay, we'll close it up permanently, no problem.

MR. ARGENIO: I'm sorry, what about the other gate on the other end of the property, what's the intent there?

MR. O'BRIEN: This one here?

MR. ARGENIO: Still going to use the other people's driveway for ingress and egress.

MR. O'BRIEN: We're not sure why the driveway's there, we're not going to touch it.

MR. BABCOCK: What happened in the past when Devitt's had Eggbert down there, they had a gentlemen's agreement.

MR. ARGENIO: Jack sweet-talked the neighbor pretty much.

MR. BABCOCK: They opened the gate and let the people flow out in there to park.

MR. SCHLESINGER: Why don't we permanently close both sides?

MR. O'BRIEN: You want to close that also?

MR. SCHLESINGER: If it's a gate then it's, there's always been--

MR. O'BRIEN: It doesn't work actually so--

MR. ARGENIO: I think he's right, don't you, Jim?

MR. PETRO: I think it's immaterial.

MR. ARGENIO: You're dumping people on the other guy's property, it wasn't an issue with Jack but may become an issue.

MR. PETRO: Then he would complain and he'd have to stop if it's not a complaint, it's an easier flow of traffic.

MR. ARGENIO: The other one's a safety issue.

MR. EDSALL: Exactly.

MR. O'BRIEN: We'll just take that off there, no problem.

MR. EDSALL: Do we know for sure if in the title searches there are no cross-easements to use the drive?

MR. O'BRIEN: I don't know.

MR. EDSALL: I would suggest that you leave well enough alone, we don't know if easements exist. The other one's the safety issue, this one is just a matter if there's a--

MR. ARGENIO: Don't fiddle with it, if somebody complains, you can address it.

MR. EDSALL: Clearly a private arrangement, if they

want to change it, they can.

MR. PETRO: Still having Eggbert?

MR. ARI STRAUS: We were just talking about that. When we purchased the building the condition would be that we'd have access to Eggbert for the rest of the--

MR. PETRO: You make fun of my questions but this is serious stuff.

MR. BABCOCK: We may have a conflict there, Mr. Chairman.

MR. PETRO: I told you not to ask those kinds of questions.

MR. BABCOCK: We may have a conflict with this applicant about the use of Eggbert at Christmas time, I think we can work that out though.

MR. PETRO: Other than Eggberg, can I ask this question? Motion for negative dec.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec under SEQRA process for the Straus Family Capital Group on 59 Windsor Highway. Is there any further discussion? If not, roll call.

ROLL CALL

MR. SCHLESINGER AYE MR. GALLAGHER AYE MR. MASON AYE MR. ARGENIO AYE

MR. PETRO

AYE

MR. PETRO: Recognizing that this is an existing site with proposed upgrade, I'm not sure if there are any other areas which the board desires further attention and review. If there are any other areas of concern beyond these already considered, please advise such and our office can address those matters. I will hand that over and I will poll the board. Mr. Mason, do you have anything else you want to discuss?

MR. MASON: One issue exists about a flag, we're having everybody put flags on the buildings and I don't know if there's one there or not.

MR. STRAUS: Yes, actually, last time after the meeting somebody mentioned that to us that we designate for a flag on the building and specifically--

MR. O'BRIEN: We'll have the architect add that.

MR. ARGENIO: I have no problem.

MR. GALLAGHER: No problem.

MR. SCHLESINGER: Looks good.

MR. PETRO: A few odds and ends that you're going to have to take care of which I will call housekeeping items, I'm not going to over all, one of them planning board should require that a bond estimate be submitted in accordance with Chapter 137 and the other ones are small in nature. You can handle them with Mark, ones Mark tells me, once Myra calls me and says the plans are ready to be signed, Neil or I would sign them. So until these small housekeeping items are done that's about it. Motion for final approval.

MR. ARGENIO: I'll make the motion subject to what you just read into the minutes.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and second that the New Windsor Planning Board grant final approval to the Straus Family Capital Group on 59 Windsor Highway, BL Companies, with the couple of subject-tos that I just read in. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

MR. PETRO: Good luck, guys.

MID HUDSON HOLDING II SUBDIVISION (04-25)

Mr. Steve Michalski appeared before the board for this proposal.

MR. PETRO: Mark, I don't have any comments on this.

MR. EDSALL: They're in there, Mid Hudson Holding.

MR. PETRO: Application proposes subdivision of the parcel currently split by New York State Route 9W. The plan was reviewed on a concept basis only. Property to my understanding is an old railroad bed, spans Route 9W just south of Forge Hill Road. Plan does not depict zone line, splits the property, property includes both NC and R-3 zones, get a copy Mark's comments, Steve. Why don't you tell us what you want to do there instead of me trying to go through this?

MR. MICHALSKI: Basically, I own one tax lot, it's separated by 9W and I want to just basically sometimes you don't have natural subdivision laws so I want to basically split the two pieces, got somebody who's interested in buying the piece on the east side and I will retain the piece on the west side.

MR. PETRO: Lot spans the road and the highway with our zone does not create a subdivision so we're going to create it. By creating the two lots, Mark, are either of the lots going to be substandard that we cannot create it? Do they have enough frontage? Is there any reason why we cannot create the lots?

MR. EDSALL: Well, as I indicated in my comments there's not a bulk table here that gives us all the information so we--

MR. MICHALSKI: Well, it has, when I met with you, I think you said you wanted to know you just said lot area, lot width.

MR. EDSALL: But did you provide the bulk information for both zones since the one side is--

MR. MICHALSKI: Yeah, on the R-3 zone you need 8,000 square feet, we have 16 acres, we need a lot width of 175 we have 330.

MR. EDSALL: Do you have frontage? On the NC you don't list frontage.

MR. MICHALSKI: You don't need frontage on NC.

MR. EDSALL: Normally, what we see is the whole bulk table.

MR. MICHALSKI: We just put down the things.

MR. EDSALL: The answer to your question I don't know for sure because I want to see a complete bulk table. One of the difficulties that I ran into is the way the new zoning regulations read if you look in my comment 3 they have to show that the lots are buildable which there's definition in the law about buildable and that's effective as of when the new law went into effect, I don't know how that terminology would apply to the ability to use each side or each part of this subdivision.

MR. MICHALSKI: If you look at the NC, you have frontage, there's no frontage applying, you can see it's about a couple hundred feet of frontage and the only thing would be just, you know, obviously 100 by 50 foot building would fit there.

MR. PETRO: Where would you get a curb cut for either one of the lots?

MR. MICHALSKI: Lot 1 would be on Sloop Hill Road and this would be 9W.

MR. PETRO: And directly off 9W, what's the sight distance?

MR. MICHALSKI: Plenty of sight distance.

MR. PETRO: That's the hill coming down.

MR. ARGENIO: Going south, going uphill.

MR. MICHALSKI: There's plenty of sight distance.

MR. ARGENIO: I don't think it's reasonable to say it's impossible to acquire but it's surely an uphill battle tantamount to like a cliff with no ropes.

MR. PETRO: Once you create the lot DOT at this point is somewhat required to give a curb cut to a lot, so I would say that this, DOT should look at this and say whether or not they can have it over here the access on Sloop Hill because this is all one lot, once we make two lots, they're going to be compelled to give him--

MR. ARGENIO: Are they compelled? I don't know. I'm asking you.

MR. PETRO: I believe they are compelled if it's a lot, yes, if it's a parcel of property.

MR. MICHALSKI: Actually plenty of sight distance, the topo drives off, it's below the road part of it but this part there's a post and wire fence, this is much lower, this slopes down right below the fence so one possibility is to get access and maybe one house on the property.

MR. SCHLESINGER: In actuality there's no access to lot number 2 right now, is that correct?

MR. MICHALSKI: Well, there could be.

MR. SCHLESINGER: Nothing lost, nothing gained. Do you understand what I'm saying? In essence, it's all considered one lot now.

MR. PETRO: We can give him--

MR. ARGENIO: There is no physical access now anyway.

MR. SCHLESINGER: So he has nothing, he has no downside.

MR. PETRO: The downside is by us creating the lot it would then go to DOT and DOT by possibly law would have to give him a curb cut in a dangerous situation. If we do not create the lot DOT would not be put in that situation therefore we're going to send it to DOT first and I want an opinion from them before we do anything else.

MR. EDSALL: The other thing that has happened recently as you're aware as of September 1st this has to go to the Orange County Planning Department as well and since it's a new application and the board's determined that any applications that come before the board after the September 1st date.

MR. PETRO: That we can't do anything about.

MR. EDSALL: I'll send it to DOT as well.

MR. MICHALSKI: If you say one house here I can't imagine right up the street in Cornwall they have the Cornwall Commons, he's got like 30 houses, same stretch of road, it's about 300 feet up from here.

MR. PETRO: If that's the case, it should be no problem. They can say I just don't want to make that determination because it's a bad spot there and once we have created the lot then maybe have to, I'm repeating

myself, so I don't need to repeat it.

MR. MICHALSKI: One of the things, one possibility coming that way there's an old spur here that goes down by the old factory.

MR. PETRO: Do you have a right-of-way?

MR. MICHALSKI: I don't but we're negotiating, this is a possibility.

MR. PETRO: Look in case DOT says absolutely not.

MR. ARGENIO: What factory?

MR. MICHALSKI: Paper factory, the old paper factory on Sloop Hill Road.

MR. PETRO: We can still create the lot because he would have frontage on 9W, even though that's not his access point. Okay, Mark, you know what I want to do, right, because I'm getting very tired.

MR. MICHALSKI: Talk to DOT.

MR. EDSALL: We'll refer it to DOT and the County Planning Department.

MR. PETRO: And you've got a copy, you're going to put the rest of the bulk information on the plan, you have a copy, right, just take that with you. A lot of it is simple, you really shouldn't have a problem, if DOT doesn't have a problem, I don't see a problem with it. I really don't. But I just don't want to create something and say you created that crazy thing and now we have to act. So let's find out first, in the meantime, you can have a little homework, go find out if you can get another access point.

MR. MICHALSKI: Thanks, Jim.

DISCUSSION

NEW WINDSOR EQUIPMENT RENTALS

MR. PETRO: Attention James Petro, Chairman, New Windsor Planning Board. We respectfully request two 90 day extensions for the application 3-34 subdivision of Section, Block and Lot number 91-1-08 in the Town of New Windsor, the address of the subject property is 14 Argenio Drive off Ruscetti Road. Thank you. Jerry Argenio, New Windsor Equipment Rentals. Why do you need two 90 day extensions again? What are you doing?

MR. ARGENIO: Well, that's my actually just for the record that's my uncle's hand on that letter and it, actually, my secretary has a typo in there, it's actually a lot line change, it's, the thing is that, Jimmy, we went to the zoning board to get the use variance in the back of our property and we're going to contract with, New Windsor Equipment Rentals is going to contract with the Town to purchase the property and just the legal wheels don't move as quickly as maybe we'd like them to move. And I understand from my uncle who's handling the purchase that we're very close to making the purchase, meaning just a few weeks out.

MR. PETRO: And the 180 day extension you'll take out the dates and figure out where it is. Any comment from any of the board members? If not, entertain a motion for the 180 days to run consecutive, two 90 day.

MR. GALLAGHER: I'll make the motion.

MR. MASON: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant 180 day extension to the subdivision that we've just been talking about, New Windsor Equipment Rental and Service. Any further comment from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	ABSTAIN
MR.	PETRO	AYE

BUILDERS ASSOCIATION

MR. EDSALL: One item the board may recall the Builders Association application out on Route 207 that you asked me to follow up on relative to the status or need for a permit from DEC for them to proceed with their work, in fact, they really do need a permit, they have applied for the permit, they have received a notice from DEC for an incomplete application and one of the items in that notice was the fact that this board as lead agency had not reached a determination for a negative dec or positive dec for the site plan application, I believe this board had no problems with what was proposed and you're not aware of any reasons why or any significant impacts which would occur as a result of the application? So procedurally, I'd suggest that if you agree you adopt a negative dec for the Builders Association site plan so they can go back to DEC, take care of the other items and have in hand the negative declaration.

MR. PETRO: They're lead agency, correct?

MR. EDSALL: You are lead agency for the site plan, they cannot process the permit because it's one action the site plan so they need your negative dec before they can proceed with their completion of the permit process.

MR. PETRO: Doesn't the Town line run there through there somewhere? It's all New Windsor.

MR. EDSALL: Yeah, this is right on 207.

MR. BABCOCK: Right across from Little Britain Elementary School.

MR. PETRO: Okay.

MR. BABCOCK: So you suggested the board would give

them the negative dec.

MR. PETRO: I do. Any comment? Motion.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for the Builders Association of the Hudson Valley. Any further comment from the board members? If not, roll call.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

PLUM POINT CONDOMINIUMS

MR. ARGENIO: Relative to Plum Point Condominiums mansion we're going to see those folks again at some point in time? Somebody do some site visits?

MR. PETRO: I did two site visits and I did a site visit with Mark and Mike and they're working up a new plan, the plan they had was just not going to work.

MR. ARGENIO: So they'll be back?

MR. PETRO: They'll be back.

DISCUSSION

MR. ARGENIO: Again, the second thing was I just, I want to get something square in any mind regarding the fellow with the 16 acres, just now Mark your comment says in the new code blah, blah, blah, March, 2004 Section 257 that each lot is buildable, demonstrates that each lot is buildable, is that in every zone or this zone?

MR. BABCOCK: Every zone.

MR. ARGENIO: If I lop of a 20 x 60 piece of property that I want to sell to my neighbor, I can't do that?

MR. BABCOCK: No, if you're going to do a subdivision, you cannot do that. If you're going to do a lot line change, you can do what you're talking about. You want to give a little piece to a neighbor, a lot line change that's fine but you can't do a subdivision and sell me a little piece of your property.

MR. ARGENIO: Asked and answered. Thank you.

MR. EDSALL: What you might do, the only impact I see is if you have a lot that's steeply sloped clearly is so steep and is a rock cliff that even though on paper you're showing a lot that meets zoning square footage you could have the basis for not approving it now.

MR. ARGENIO: So a cliff like Plum Point to the south and east we can look at that and say oh my God, the topo's half a millimeter apart, it's not a buildable lot, you have to attach this so people can't walk away from their tax obligation.

MR. EDSALL: It used to be the only way you can deem a lot not in compliance is if it didn't meet the bulk regulations subtract wetlands and other encumbrances but you've had a blind eye towards slope, this code now

says if you have five acres you have to have at least 5,000 square foot that you can put a house on and a couple other things.

MR. ARGENIO: Understood. That's it, Jim.

MR. PETRO: Motion to adjourn?

MR. ARGENIO: So moved.

MR. MASON: Second it.

ROLL CALL

MR.	SCHLESINGER	AYE
MR.	GALLAGHER	AYE
MR.	MASON	AYE
MR.	ARGENIO	AYE
MR.	PETRO	AYE

Respectfully Submitted By:

Frances Roth Stenographer